

**IN THE UNITED STATES COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JOHN A. KLINK and KATHLEEN KLINK	:	CIVIL ACTION
	:	
	:	
v.	:	
	:	
STATE FARM MUTUAL AUTOMOBILE INSURANCE CO.	:	NO.

NOTICE OF REMOVAL

**TO THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA:**

The above-named defendant in this matter, "State Farm Mutual Automobile Insurance Company," (hereinafter referred to in this Notice of Removal as "State Farm") hereby files the within Notice of Removal of this case from the Court of Common Pleas of Montgomery County, Pennsylvania, in which it is now pending, to the United States District Court for the Eastern District of Pennsylvania. This Notice is filed pursuant to 28 U.S.C. § 1441, et seq., and in support thereof, defendant states the following:

1. This action was commenced in the Court of Common Pleas of Montgomery County, Pennsylvania, by Complaint and is docketed in the state court at No. 02-10367. See Exhibit "A" (Complaint for Declaratory Judgment filed June 5, 2002).

2. Plaintiffs, John A. Klink and Kathleen Klink, are citizens of the Commonwealth of Pennsylvania. See Exhibit "A", Plaintiffs' Complaint at paragraph 1.

3. Defendant State Farm Mutual Automobile Insurance Company is a corporation that is duly incorporated, organized and existing under the laws of Illinois with its principal place of business located in Bloomington, Illinois. State Farm Mutual Automobile Insurance Company is a citizen of the State of Illinois.

4. The value of the matter in controversy exceeds the amount of \$75,000, exclusive of interest and costs. See Complaint, Exhibit "A". (Plaintiffs purchased only \$15,000 per person/\$30,000 per accident in underinsured motorist coverage and now seek to reform that coverage to \$100,000 per person/\$300,000 per accident.

5. The instant lawsuit is removable from State Court to the United States District Court for the Eastern District of Pennsylvania pursuant to 28 U.S.C. §1332(a)(1) and §1441(a).

6. Copies of all process, pleadings, and orders served upon or otherwise received by petitioner are attached as Exhibit "A".

7. A copy of the Plaintiffs' Complaint was mailed to State Farm's undersigned attorneys by letter dated June 6, 2002, and received by the undersigned attorneys on June 7, 2002; service was accepted June 17, 2002.

8. This Notice of Removal is timely, as it is being filed less than thirty (30) days, as that period is computed under the Federal Rules, of service upon or receipt by defendant of a copy of the state court action.

WHEREFORE, Defendant respectfully requests that this action be removed from the Court of Common Pleas of Montgomery County, Pennsylvania, to the United States District Court for the Eastern District of Pennsylvania.

BRITT, HANKINS, SCHAIBLE & MOUGHAN

BY:

Teresa Ficken Sachs
Attorneys for Defendant
Atty. I. D. NO. : 41136

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Two Penn Center Plaza
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Philadelphia, PA 19102
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Attorneys for Defendant,
State Farm Mutual Automobile Insurance Company

**IN THE UNITED STATES COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JOHN A. KLINK and KATHLEEN KLINK	: : : : : : : :	CIVIL ACTION
v.		
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MEMORANDUM OF LAW

Title 28, U.S.C. § 1441 provides, in part, that,

(a) Any civil action brought in the State Court of which the District Courts of the United States have original jurisdiction, may be removed by the defendant or defendants to the District Court of the United States for the district and the division embracing the place where such action is pending.

In this case, Plaintiffs filed an action against the above-named Defendant in the Montgomery County Court of Common Pleas, Commonwealth of Pennsylvania. The Complaint indicates, and State Farm asserts, that Plaintiffs are citizens of the Commonwealth of Pennsylvania. State Farm Mutual Automobile Insurance Company ("State Farm") is a corporation duly organized and existing under the laws of the State of Illinois with its principal places of business located in Bloomington, Illinois. State Farm is a citizen of the State of Illinois. The amount in controversy exceeds \$75,000. See Exhibit A.

Under these circumstances, this Court has original jurisdiction over the instant controversy based upon complete diversity of citizenship between the parties, Plaintiff and Defendant, pursuant to 28 U.S.C. § 1332(a)(1).

Therefore, Defendant respectfully requests that the state court action be removed to the federal forum.

BRITT, HANKINS, SCHAIBLE & MOUGHAN

BY:

Teresa Ficken Sachs
Attorneys for Defendant
Atty. I. D. NO. : 41136

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(215) 569-6949

Attorneys for Defendant,
State Farm Mutual Automobile Insurance Company

**IN THE UNITED STATES COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JOHN A. KLINK and	:	CIVIL ACTION
KATHLEEN KLINK	:	
43 West Fourth Street	:	
Pottstown, PA 19464	:	
	:	
v.	:	
	:	
STATE FARM MUTUAL	:	
AUTOMOBILE INSURANCE CO.	:	
One State Farm Plaza	:	
Bloomington, IL 61710-0001	:	NO.:

The undersigned certifies that a copy of the foregoing Defendant's Notice of Removal, Memorandum of Law and supporting Affidavit / Exhibits, were forwarded this day, the ____ of _____, 2002, to the Court and the below listed counsel by Overnight Mail and First Class Regular U.S. Mail:

Peter I. Daniele, Esquire
1730 Forest Creed Drive
Blue Bell, PA 19422

Teresa Ficken Sachs, Esquire

Dated: _____